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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,190	08/19/2003	Gwendolyn Maxine(Cook) Jones		5710

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Gwendolyn M. Cook Jones
P.O. Box 39165
Redford, MI 48239

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,190

Applicant(s)JONES, GWENDOLYN
MAXINE(COOK)**Examiner**

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>051504</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowachi et al. in view of Arnold and Vail.

The patent to Nowachi discloses a legal discipline board game. The game comprises a game board spinner Fig. 2, having thereon a plurality of areas, each area representing a legal discipline. The legal disciplines on the board spinner are represented as letters "A" - "Z" and numbers "1" - "4". Nowachi further comprises a plurality of game cards 180 divided into the different legal disciplines "A" - "Z" and numbers "1" - "4" corresponding to the areas on the game board spinner, see cards 101-126, 130, 140, 150, 160. The game cards each have legal scenarios. A gavel, pivotally connected to the center or intersection of the areas of the game board spinner, is used to select a legal discipline card, see col. 7, lines 13-16. To play Nowachi's board game, players must follow rules, see flowchart, Fig. 8 and see description of rules col. 8, line 41 to col. 17, line 3.

The patent to Arnold discloses a legal discipline board game wherein the hierarchy of players (order of play) is determined by the roll of dice, col. 4,, lines 21-23. In view of such teaching, it would have been obvious to incorporate dice to Nowachi's

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game in order to conveniently and randomly determined the hierarchy of players to make the game fair.

Nowachi game can be played by accumulating points or credits (which may involve a scorecard) for correct answers. The player correctly answering a required number of answers wins, see col. 17, lines 36-41.

The patent to Vail discloses a legal discipline board game comprising a scorecard in the form of a jury box game piece 28 for each player, and miniature jurors 26. The jury box game piece has circular area adapted to receive one of the miniature jurors. The object of Vail's game is to correctly answer a required number of legal questions from legal question cards. A miniature juror is placed in the jury box game piece for each correct answer, see abstract, and col. 4, lines 1-3 and col. 4, lines 20-25. In view of such teaching, it would have been obvious to incorporate a jury box game piece and miniature jurors to Nowachi's game in order to more conveniently keep track of each players' score.

The only difference between the color coded areas on the board of the claimed invention, and the lettered and numbered areas on Nowachi's board resides in the meaning and information conveyed by printed matter. Such differences are considered unpatentable, *Ex parte Breslow*, 192 USPQ 431.

Vail's jury box game pieces and miniature jurors are oriented or shaped to represent the legal discipline theme. The only difference between Vail's jury box game pieces and miniature jurors teaching, and the Applicant's gavel playing piece and miniature gavels is simply a mere matter of choice in **ornamentality and produces no**

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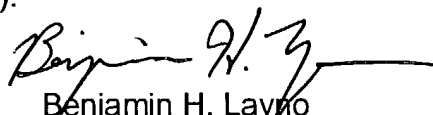
mechanical effect or advantage considered to constitute invention. Therefore, the Applicant's gavel playing pieces and miniature gavels do not involve patentable subject matter, *In re Seid* (CCPA) 73 USPQ 431.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Donovan and Carrera et al. disclose question and answer type board games wherein a game board spinner determines from which deck of cards a question card is to be selected from.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
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